

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jenzo Duque	Team: Squad #8	CCRB Case #: 201808962	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 09/21/2018 12:38 AM	Location of Incident: In Front of 624 Clinton Street; 76th Precinct stationhouse	Precinct: 76	18 Mo. SOL 3/21/2020	EO SOL 11/5/2020	
Date/Time CV Reported Mon, 10/29/2018 1:14 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Mon, 10/29/2018 1:14 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Adam Saleh	04273	962078	076 PCT
2. An officer			076 PCT
3. SGT Elio Ponzo	04140	944904	076 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Desmond Mohan	27964	946013	076 PCT
2. POF Lauren Maragni	14565	956879	076 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Adam Saleh	Abuse: Police Officer Adam Saleh stopped the vehicle in which § 87(2)(b) was an occupant.	
B.SGT Elio Ponzo	Abuse: Sergeant Elio Ponzo seized § 87(2)(b)'s property.	
C. An officer	Abuse: An officer searched the vehicle in which § 87(2)(b) was an occupant.	
D. An officer	Abuse: An officer damaged § 87(2)(b)'s property.	

Case Summary

§ 87(2)(b) filed this complaint with the CCRB In-person on October 29, 2018.

On September 21, 2018, at approximately 12:38 a.m., in front of 624 Clinton Street in Brooklyn, Police Officer Adam Saleh of the 76th Precinct stopped § 87(2)(b)'s vehicle (**Allegation A: Abuse of Authority:** § 87(2)(g) PO Saleh and his partner, Police Officer Desmond Mohan of the 76th Precinct, reviewed § 87(2)(b)'s license for warrants and upon discovering he had an active Investigative Card, arrested him. Sergeant Elio Ponzio and Police Officer Lauren Maragni of the 76th Precinct then responded to the location; Sgt. Ponzio verified § 87(2)(b)'s arrest, approved the removal of his vehicle from the scene, and PO Maragni transported § 87(2)(b)'s vehicle to the precinct stationhouse (**Allegation B: Abuse of Authority:** § 87(2)(g) After § 87(2)(b) was released from police custody and he retrieved his vehicle, he observed items in the hatchback had been tossed about and that an interior side-panel of the hatchback had been ripped off. § 87(2)(b) concluded that officers searched his vehicle and damaged his property (**Allegations C-D: Abuse of Authority:** § 87(2)(g)).

There were three body-worn camera videos available for this incident, from the following MOS: PO Saleh and PO Mohan (Board Review 01-03). § 87(2)(b) was arrested as a result of this incident and charged with § 87(2)(a) 160.50

Allegation A: Police Officer Adam Saleh stopped the vehicle in which § 87(2)(b) was an occupant.

It is undisputed that PO Saleh stopped the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) testified that PO Saleh stopped his vehicle, a Dodge Caravan with malfunctioning right and left turn signals, as he completed a left turn onto Clinton Street. § 87(2)(b) testified that he signaled the left turn by extending his left arm completely out his window, which is a legal substitute. (Board Review 04). PO Saleh and PO Mohan consistently testified that they observed § 87(2)(b) complete the left turn without signaling and that PO Saleh stopped his vehicle because of such (Board Review 05) (Board Review 06). § 87(2)(g)

Likewise, neither officer documented the reason for the stop in their memo books (Board Review 08) (Board Review 09) or triggered their body-worn cameras prior to the stop (Board Review 01) (Board Review 03). Similarly, the vehicle they were driving did not have a dashboard camera (Board Review 10).

§ 87(2)(g)

Allegation (B): Abuse of Authority: Sergeant Elio Ponzio seized § 87(2)(b)'s property.

It is undisputed that Sgt. Ponzio seized § 87(2)(b)'s property.

§ 87(2)(b) testified that after initiating the vehicle stop, PO Saleh and PO Mohan told him he was under arrest for an active Investigative Card. § 87(2)(b) told the officers he wanted his wife,

§ 87(2)(b), who could not be reached to provide statements, to take his vehicle from the scene of the stop. The officers told § 87(2)(b) that § 87(2)(b) could retrieve his vehicle from the precinct stationhouse, as the officers would voucher it as evidence. Other officers responded to the scene, including PO Maragni, who entered § 87(2)(b)'s vehicle and drove it to the precinct stationhouse. § 87(2)(b) volunteered that § 87(2)(b) did not have a valid New York Driver's License at the time of the stop, only a driver's permit. (Board Review 04).

PO Saleh and PO Mohan corroborated § 87(2)(b)'s testimony regarding removing his vehicle from the scene of the stop and telling § 87(2)(b) she could retrieve it from the precinct stationhouse. The officers consistently testified that they did not discuss removing the vehicle from the scene, and called their supervisor, Sgt. Ponzo, to verify the arrest before transporting § 87(2)(b) and his vehicle to the precinct stationhouse (Board Review 05) (Board Review 06). PO Saleh testified that he removed § 87(2)(b)'s vehicle from the scene to safeguard it until he could verify a licensed motorist could drive the vehicle from the precinct stationhouse. PO Saleh called Sgt. Ponzo to the scene to not only verify the arrest, but also to approve the removal of the vehicle from the scene, which Sgt. Ponzo provided. PO Saleh ultimately released § 87(2)(b)'s vehicle to § 87(2)(b) at the stationhouse, which he documented by having her sign his memo book (Board Review 08).

The officers consistently testified that they took no steps to verify whether § 87(2)(b) was a licensed motorist. Sgt. Ponzo, who had no independent recollection of the incident, testified that he did not recall whether any steps were taken by any officer to verify § 87(2)(b) was a licensed motorist. Sgt. Ponzo did not recall whether officers seized § 87(2)(b)'s vehicle and he denied doing so himself (Board Review 11). PO Mohan also did not recall any discussion between officers and Sgt. Ponzo regarding removing § 87(2)(b)'s vehicle from the scene (Board Review 06).

PO Saleh and PO Mohan's body-worn camera video footage corroborated that the officers did not discuss removing § 87(2)(b)'s vehicle from the scene with each other (Board Review 01) (Board Review 03). However, Sgt. Ponzo's body-worn camera video footage was not obtained for this incident, due to § 87(2)(b)'s arrest becoming sealed, and neither officer's body-worn camera video footage clearly depicted Sgt. Ponzo discussing removing § 87(2)(b)'s vehicle from the scene with them (Board Review 12). § 87(2)(g)

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Patrol Guide Procedure 218-12 regarding safeguarding vehicles in police custody (Board Review 13) states, "A vehicle may be safeguarded at the command for forty-eight hours when not required as evidence or not the subject of forfeiture proceedings. A vehicle not released to the owner or his/her representative within forty-eight hours will be removed to the appropriate Property Clerk storage facility."

§ 87(2)(g)

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Allegation (C): Abuse of Authority: An officer searched the vehicle in which § 87(2)(b) was an occupant.

Allegation (D): Abuse of Authority: An officer damaged § 87(2)(b)'s property.

§ 87(2)(g)

§ 87(2)(b) testified that he did not observe officers search his vehicle on scene. However, after he was released from police custody and retrieved his vehicle, § 87(2)(b) observed items in the hatchback had been tossed about and that an interior side-panel of the hatchback had been ripped off. § 87(2)(b) denied any of the damage existing prior to the incident, but had no documentation of the vehicle's condition prior to or after the incident. § 87(2)(b) concluded that officers searched his vehicle and damaged his property while it was in police custody (Board Review 04).

PO Saleh and PO Maragni consistently testified that PO Maragni transported § 87(2)(b)'s vehicle from the stationhouse. PO Saleh testified that no officer other than PO Maragni entered § 87(2)(b)'s vehicle at the scene of the stop; however, neither PO Mohan, Sgt. Ponzo, nor PO Maragni could state with any certainty whether any other officer entered § 87(2)(b)'s vehicle at the scene of the stop (Board Review 04) (Board Review 14) (Board Review 05) (Board Review 11). PO Maragni, who had no independent recollection of this incident, could not describe the condition of § 87(2)(b)'s vehicle during the incident upon request. PO Maragni drove § 87(2)(b)'s vehicle directly from the scene to the precinct stationhouse. PO Maragni denied searching inside the vehicle in any capacity and she denied damaging it while in transit to the stationhouse. PO Maragni did not recall to whom she released § 87(2)(b)'s vehicle at the stationhouse.

PO Saleh testified that he entered § 87(2)(b)'s vehicle while it was at the stationhouse and conducted a visual sweep of its interior with a flashlight. PO Saleh opened the driver's door, put his head into the vehicle, and reviewed the interior for weapons or contraband, but recovered nothing. PO Saleh described § 87(2)(b)'s vehicle as an older model with wear and tear, but could not specify the extent of the interior damage he observed upon request. No other officer entered § 87(2)(b)'s vehicle while it was at the stationhouse. PO Saleh denied damaging § 87(2)(b)'s property and he denied searching inside it outside the scope of the visual sweep.

PO Maragni's body-worn camera video footage was not obtained for this incident, due to § 87(2)(b)'s arrest becoming sealed, and PO Saleh's body-worn camera video footage did not clearly capture the scope of his visual sweep inside § 87(2)(b)'s vehicle (Board Review 12) (Board Review 03).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to two CCRB complaints and has been named a victim in seven allegations (Board Review 15)
 - § 87(2)(b)

§ 87(2)(b)

- PO Saleh has been a member of service for three years and has been subject in one CCRB complaint and two allegations, none of which were substantiated. § 87(2)(g)
- PO Maragni has been a member of service for five years and has been a subject in two CCRB complaints and three allegations, two of which were not substantiated and one of which is pending investigation. § 87(2)(g)
- Sgt. Ponzio has been a member of service for 12 years and has been a subject in five CCRB complaints and five allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- A Notice of Claim Request was sent to the New York City Office of the Comptroller's, and as of the writing of this report, the office has yet to answer.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date